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AG Bruning: Response to Federal Government Claim on Health Care Reform Challenge

LINCOLN – Nebraska Attorney General Jon Bruning and 19 other state attorneys generals and governors responded today to the federal government’s claim that Congress had authority to adopt the Patient Protection and Affordable Care Act (PPACA).

“For the first time, the federal government is forcing Nebraskans to purchase a good or service,” Bruning said. “Today’s filing is the next step toward reining in Congress’ unprecedented expansion of power.”

Today’s response outlined that the federal government, in arguing that PPACA would provide monetary savings for the States, relied upon outdated information compiled before the Act was adopted. Further, the federal government’s evidence mistakenly attributes health care reform savings to the States, which instead only benefits non-state entities.

In October, U.S. District Judge Roger Vinson ruled that the States had the right to advance their challenges to both the federal health care law’s requirement that all Americans purchase government-approved health insurance and the federally-mandated expansion of state-funded Medicaid programs.

The States’ legal challenge to the federal health care law explains that the Act violates the U.S. Constitution – specifically the Commerce Clause, the Ninth Amendment and the Tenth Amendment – because it forces all Americans to obtain and maintain federally-approved health insurance coverage – or pay a penalty. The federal court’s October decision ruled: “The individual mandate applies across the board. People have no choice and there is no way to avoid it. Those who fall under the individual mandate either comply with it or they are penalized. It is not based on an activity that they make the choice to undertake. Rather, it is based solely on citizenship and on being alive.”

In October, Judge Vinson also determined that the States could proceed with their challenge to the Act’s requirement that they dramatically expand their Medicaid spending – at a cost of billions of dollars to state treasuries and taxpayers. The States’ “coercion and commandeering” claim argues that the Act fundamentally changes the nature and scope of the Medicaid program by dramatically expanding Medicaid eligibility in an effort to obtain federally mandated universal health care coverage.

Nebraska’s expense for funding new and expanded Medicaid programs resulting from the federal health care law is estimated to cost more than \$450 million.

The States will be filing a reply brief in support of their own motion for summary judgment on December 6, 2010. Oral arguments on the cross-motions for summary judgment will be heard on December 16, 2010 at 9:00 a.m. in Pensacola, Florida.